

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P. (227) No. 1079 of 2015**

1. Jhangaluram, aged about 56 years,
2. Chintaman, aged about 57 years,

Both S/o Late Budhram Satnami, R/o Village Bharenga, Tah. Abhanpur, District Raipur (C.G.)**Defendants No. 1 & 2**

---- Petitioners**Versus**

1. Smt. Asha Pawar, Age 44 years, W/o R.C. Pawar, D-21, New Rajendra Nagar, At-Teh- Distt. Raipur (C.G.)
2. State of Chhattisgarh, Through : The Collector, Raipur, District Raipur (C.G.)

---- Respondents

For Petitioners	:	Mr. Raja Sharma, Advocate.
For Respondent No. 1	:	Mr. Raghvendra Pradhan, Advocate.
For Respondent No. 2	:	Mr. Avinash Singh, PL

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****14/12/2016**

Heard.

(1) In a suit filed by the respondent No.1/plaintiff, he has also filed application for temporary injunction.

(2) The trial Court, by its order dated 15.12.2014, has allowed the plaintiff's application filed under Order 39 Rule 1 & 2 of the CPC, finding *inter alia*, that *prima facie* case, balance of convenience and irreparable loss in her favour.

(3) The petitioners/defendants No. 1 & 2 preferred appeal under Order 43 Rule 1 there-against. The Appellate Court has also affirmed the finding so recorded by trial Court and dismissed the appeal, against which, the instant writ petition has been filed under Article 227 of the Constitution of India.

(4) Counsel for the petitioner submits that the concurrent finding recorded by both the courts below are contrary to the record and based on no evidence and, therefore, the order impugned be set aside.

(5) The concurrent findings recorded by both the courts below that *prima facie* case, balance of convenience and irreparable loss in favour of plaintiff/respondent No.1 based on record and it is not contrary to the record and, therefore, I do not find any illegality in the order impugned warranting interference by this Court in this petition.

(6) Applying its earlier decision in **Surya Dev Rai v. Ram Chander Rai**¹ and **Shalini Shyam Shetty v. Rajendra Shankar Patil**², the Supreme Court in **Sameer Suresh Gupta through PA Holder v. Rahul Kumar Agarwal**³ has held that supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate courts within the bounds of their jurisdiction. When a subordinate court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction. It has also been held that supervisory jurisdiction or certiorari jurisdiction is not

1 (2003) 6 SCC 675

2 (2010) 8 SCC 329

3 (2013) 9 SCC 374

available to correct mere errors of fact or of law unless the following requirements are satisfied : (i) the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and (ii) a grave injustice or gross failure of justice has occasioned thereby. The power to issue a writ of certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act least a gross failure of justice or grave injustice should occasion.

(7) Accordingly, the writ petition filed under Article 227 of the Constitution of India deserves to be and is hereby dismissed. However, the trial Court is directed to decide the suit expeditiously preferably within a period of six months from the date of receipt of copy of this order.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-